

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * * *

THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	3:04-CV-00402-LRH (RAM)
)	
v.)	
)	<u>ORDER</u>
SEVENTY-ONE FIREARMS,)	
)	
Defendants.)	
_____)	

Presently before the court is Claimant Vernon Johnson's Notice of Affidavit (#15¹) filed pursuant to this court's previous order (#14) regarding Claimant's Motion to Transfer Firearms (#11). The United States of America has filed a response (#16).

The court's previous order held that Claimant's request to substitute himself for his deceased brother, and former claimant, Philip Johnson, was timely under the rules and could proceed. However, the court noted that Claimant had not provided sufficient evidence to demonstrate he was a proper party for substitution. Claimant was given 15 days to provide the court with the necessary evidence.

In response to the court's order, Claimant filed a two paragraph affidavit². The United

¹ Refers to the court's docket number.

² Claimant's affidavit states: "That Affiant is the brother of Philip Johnson and was the person assigned by the family to take care of all of the matters for his brother at the time of his demise;" and

1 States has objected to this affidavit as insufficient under Federal Rule of Civil Procedure 25(a)(1).
2 The court has reviewed the applicable requirements of Rule 25, as well as the rules for appointment
3 of estate administrators in Nevada and finds that Claimant's affidavit is insufficient to demonstrate
4 he is a proper person to substitute for the decedent, Philip Johnson, in this manner.

5 The court will, however, provide Claimant with an extension of 45 days in which to comply
6 with the court's previous order. Claimant's original motion (#11) is therefore stayed pursuant to
7 the terms of this order.

8 IT IS SO ORDERED.

9 DATED this 16th day of October, 2006.

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13 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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25 that "Affiant is willing to be substituted in as the claimant of the 71 firearms now being held by the
26 Federal Government." No other affirmations are made.